

**BEFORE THE
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

**In the Matter of the Accusation
Against:**

Abbas Kashani, M.D.

**Physician's and Surgeon's
Certificate No. A 82220**

Case No.: 800-2018-040590

Respondent.

DECISION

The attached Stipulated Settlement and Disciplinary Order is hereby adopted as the Decision and Order of the Medical Board of California, Department of Consumer Affairs, State of California.

This Decision shall become effective at 5:00 p.m. on August 19, 2021.

IT IS SO ORDERED: July 20, 2021.

MEDICAL BOARD OF CALIFORNIA



**Laurie Rose Lubiano, J.D., Vice-Chair
Panel A**

1 ROB BONTA
Attorney General of California
2 STEVEN D. MUNI
Supervising Deputy Attorney General
3 AARON L. LENT
Deputy Attorney General
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8 *Attorneys for Complainant*

9
10 **BEFORE THE**
MEDICAL BOARD OF CALIFORNIA
11 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA
12

13 In the Matter of the Accusation Against:

Case No. 800-2018-040590

14 **ABBAS KASHANI, M.D.**
1234 E. North St. Ste. 202
15 Manteca, CA 95336

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

16 **Physician's and Surgeon's Certificate**
17 **No. A 82220**

18 Respondent.

19
20 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
21 entitled proceedings that the following matters are true:

22 **PARTIES**

23 1. William Prasifka (Complainant) is the Executive Director of the Medical Board of
24 California (Board). He brought this action solely in his official capacity and is represented in this
25 matter by Rob Bonta, Attorney General of the State of California, by Aaron L. Lent, Deputy
26 Attorney General.
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28

2. Respondent Abbas Kashani, M.D. (Respondent) is represented in this proceeding by attorney John H. Dodd, whose address is: Craddick, Candland & Conti, 2420 Camino Ramon, Ste. 202, San Ramon, CA 94583.

3. On or about March 7, 2003, the Board issued Physician's and Surgeon's Certificate No. A 82220 to Abbas Kashani, M.D. (Respondent). The Physician's and Surgeon's Certificate was in full force and effect at all times relevant to the charges brought in Accusation No. 800-2018-040590, and will expire on August 31, 2022, unless renewed.

JURISDICTION

4. Accusation No. 800-2018-040590 was filed before the Board, and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent on January 26, 2021. Respondent timely filed his Notice of Defense contesting the Accusation.

5. A copy of Accusation No. 800-2018-040590 is attached as exhibit A and incorporated herein by reference.

6. Respondent is currently on probation for three (3) years regarding an unrelated First Amended Accusation. On or about June 20, 2019, a First Amended Accusation (No. 800-2016-022369) was filed with the Board, which alleged Gross Negligence (Bus. & Prof. Code §2234, subd. (b)), Repeated Negligent Acts (Bus. & Prof. Code §2234, subd. (c)), Failure to Maintain Adequate and Accurate Records (Bus. & Prof. Code §2266), Making a Public Communication Containing a False, Misleading or Deceptive Statement (Bus & Prof. Code §§ 651, 652), Dishonesty or Corruption (Bus & Prof. Code §§ 2227, 2234, subd. (c)), and General Unprofessional Conduct (Bus. & Prof. Code §§ 2227, 2234), regarding his care and treatment of Patient A and Patient B. A copy of the First Amended Accusation No. 800-2016-022369 is attached as exhibit B and incorporated herein by reference.

7. On or about July 29, 2020, a Decision was rendered by the Board in the First Amended Accusation No. 800-2016-022369. Revocation was stayed, and Respondent was placed on three (3) years' probation, with the following terms: Education Course, Medical Record

1 Keeping Course, Practice Monitoring, and Standard Probationary Terms. A copy of the Decision
2 in case No. 800-2016-022369 is attached as exhibit B and incorporated herein by reference.

3 **ADVISEMENT AND WAIVERS**

4 8. Respondent has carefully read, fully discussed with counsel, and understands the
5 charges and allegations in Accusation No. 800-2018-040590. Respondent has also carefully read,
6 fully discussed with his counsel, and understands the effects of this Stipulated Settlement and
7 Disciplinary Order.

8 9. Respondent is fully aware of his legal rights in this matter, including the right to a
9 hearing on the charges and allegations in the Accusation; the right to confront and cross-examine
10 the witnesses against him; the right to present evidence and to testify on his own behalf; the right
11 to the issuance of subpoenas to compel the attendance of witnesses and the production of
12 documents; the right to reconsideration and court review of an adverse decision; and all other
13 rights accorded by the California Administrative Procedure Act and other applicable laws.

14 10. Respondent voluntarily, knowingly, and intelligently waives and gives up each and
15 every right set forth above.

16 **CULPABILITY**

17 11. Respondent understands and agrees that the charges and allegations in the Accusation
18 No. 800-2018-040590, if proven at a hearing, constitute cause for imposing discipline upon his
19 Physician's and Surgeon's Certificate.

20 12. Respondent agrees and does not contest that, at an administrative hearing,
21 Complainant could establish a *prima facie* case with respect to the charges and allegations
22 contained in the Accusation No. 800-2018-040590 and that he has thereby subjected his license to
23 disciplinary action.

24 13. Respondent agrees that if he ever petitions for early termination or modification of
25 probation, or if the Board ever petitions for revocation of probation, all of the charges and
26 allegations contained in the Accusation No. 800-2018-040590 shall be deemed true, correct and
27 fully admitted by Respondent for purposes of that proceeding or any other licensing proceeding
28 involving respondent in the State of California.

14. Respondent agrees that his Physician's and Surgeon's Certificate No. A 82220 is subject to discipline and he agrees to be bound by the Board's probationary terms as set forth in the Disciplinary Order below.

RESERVATION

15. The admissions made by Respondent herein are only for the purposes of this proceeding, or any other proceedings in which the Medical Board of California or other professional licensing agency is involved, and shall not be admissible in any other criminal or civil proceeding.

CONTINGENCY

16. This stipulation shall be subject to approval by the Medical Board of California. Respondent understands and agrees that counsel for Complainant and the staff of the Medical Board of California may communicate directly with the Board regarding this stipulation and settlement, without notice to or participation by Respondent or his counsel. By signing the stipulation, Respondent understands and agrees that he may not withdraw his agreement or seek to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall not be disqualified from further action by having considered this matter.

17. Respondent agrees that if he ever petitions for early termination or modification of probation, or if an accusation and/or petition to revoke probation is filed against him before the Board, all of the charges and allegations contained in Accusation No. 800-2018-040590 shall be deemed true, correct and fully admitted by respondent for purposes of any such proceeding or any other licensing proceeding involving Respondent in the State of California.

18. The parties understand and agree that Portable Document Format (PDF) and facsimile copies of this Stipulated Settlement and Disciplinary Order, including PDF and facsimile signatures thereto, shall have the same force and effect as the originals.

19. This Stipulated Settlement and Disciplinary Order is intended by the parties herein to be an integrated writing representing the complete, final, and exclusive embodiment of the agreements of the parties in the above-entitled matter.

20. The parties agree that copies of this Stipulated Settlement and Disciplinary Order, including copies of the signatures of the parties, may be used in lieu of original documents and signatures and, further, that such copies shall have the same force and effect as originals.

21. In consideration of the foregoing admissions and stipulations, the parties agree the Board may, without further notice to or opportunity to be heard by Applicant, issue and enter the following Disciplinary Order:

DISCIPLINARY ORDER

IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. A 82220 issued to Respondent Abbas Kashani, M.D. is revoked. However, the revocation is stayed and Respondent is placed on probation for five (5) years fully concurrent to the start date of his current probation *In the Matter of the First Amended Accusation Against Abbas Kashani, M.D.*, case No. 800-2016-022369, on the following terms and conditions:

1. PROBATION TO BE SERVED CONCURRENTLY: The five (5) year term of probation shall be served fully concurrently to the start date to the probation currently imposed as a result of the Board's Decision and Order *In the Matter of the First Amended Accusation Against Abbas Kashani, M.D.*, case No. 800-2016-022369, effective August 28, 2020. Thus, probation for both matters will expire upon the successful completion of each concurrent probation.

Additionally, Respondent will continue to abide by all the following disciplinary terms and conditions imposed as a result of the Board's Decision and Order *In the Matter of the First Amended Accusation Against Abbas Kashani, M.D.*, case No. 800-2016-022369, effective August 28, 2020, which are adopted in full and remain in full force effect for the entire probationary term of five (5) years:

2. EDUCATION COURSE. Within 60 calendar days of the effective date of this Decision, and on an annual basis thereafter, Respondent shall submit to the Board or its designee for its prior approval educational program(s) or course(s) which shall not be less than 40 hours

1 per year, for each year of probation. The educational program(s) or course(s) shall be aimed at
2 correcting any areas of deficient practice or knowledge and shall be Category I certified. The
3 educational program(s) or course(s) shall be at Respondent's expense and shall be in addition to
4 the Continuing Medical Education (CME) requirements for renewal of licensure. Following the
5 completion of each course, the Board or its designee may administer an examination to test
6 Respondent's knowledge of the course. Respondent shall provide proof of attendance for 65
7 hours of CME of which 40 hours were in satisfaction of this condition.

8 3. MEDICAL RECORD KEEPING COURSE. Within 60 calendar days of the effective
9 date of this Decision, Respondent shall enroll in a course in medical record keeping approved in
10 advance by the Board or its designee. Respondent shall provide the approved course provider
11 with any information and documents that the approved course provider may deem pertinent.
12 Respondent shall participate in and successfully complete the classroom component of the course
13 not later than six (6) months after Respondent's initial enrollment. Respondent shall successfully
14 complete any other component of the course within one (1) year of enrollment. The medical
15 record keeping course shall be at Respondent's expense and shall be in addition to the Continuing
16 Medical Education (CME) requirements for renewal of licensure.

17 A medical record keeping course taken after the acts that gave rise to the charges in the
18 Accusation, but prior to the effective date of the Decision may, in the sole discretion of the Board
19 or its designee, be accepted towards the fulfillment of this condition if the course would have
20 been approved by the Board or its designee had the course been taken after the effective date of
21 this Decision.

22 Respondent shall submit a certification of successful completion to the Board or its
23 designee not later than 15 calendar days after successfully completing the course, or not later than
24 15 calendar days after the effective date of the Decision, whichever is later.

25 4. MONITORING - PRACTICE. Within 30 calendar days of the effective date of this
26 Decision, Respondent shall submit to the Board or its designee for prior approval as a practice
27 monitor(s), the name and qualifications of one or more licensed physicians and surgeons whose
28 licenses are valid and in good standing, and who are preferably American Board of Medical

1 Specialties (ABMS) certified. A monitor shall have no prior or current business or personal
2 relationship with Respondent, or other relationship that could reasonably be expected to
3 compromise the ability of the monitor to render fair and unbiased reports to the Board, including
4 but not limited to any form of bartering, shall be in Respondent's field of practice, and must agree
5 to serve as Respondent's monitor. Respondent shall pay all monitoring costs.

6 The Board or its designee shall provide the approved monitor with copies of the
7 Decision(s) and Accusation(s), and a proposed monitoring plan. Within 15 calendar days of
8 receipt of the Decision(s), Accusation(s), and proposed monitoring plan, the monitor shall submit
9 a signed statement that the monitor has read the Decision(s) and Accusation(s), fully understands
10 the role of a monitor, and agrees or disagrees with the proposed monitoring plan. If the monitor
11 disagrees with the proposed monitoring plan, the monitor shall submit a revised monitoring plan
12 with the signed statement for approval by the Board or its designee.

13 Within 60 calendar days of the effective date of this Decision, and continuing throughout
14 probation, Respondent's practice monitor(s) shall be monitored by the approved monitor.
15 Respondent shall make all records available for immediate inspection and copying on the
16 premises by the monitor at all times during business hours and shall retain the records for the
17 entire term of probation.

18 If Respondent fails to obtain approval of a monitor within 60 calendar days of the effective
19 date of this Decision, Respondent shall receive a notification from the Board or its designee to
20 cease the practice of medicine within three (3) calendar days after being so notified. Respondent
21 shall cease the practice of medicine until a monitor is approved to provide monitoring
22 responsibility.

23 The monitor(s) shall submit a quarterly written report to the Board or its designee which
24 includes an evaluation of Respondent's performance, indicating whether Respondent's practices
25 are within the standards of practice of practice monitor(s), and whether Respondent is practicing
26 medicine safely, billing appropriately or both. It shall be the sole responsibility of Respondent to
27 ensure that the monitor submits the quarterly written reports to the Board or its designee within
28 10 calendar days after the end of the preceding quarter.

1 If the monitor resigns or is no longer available, Respondent shall, within 5 calendar days of
2 such resignation or unavailability, submit to the Board or its designee, for prior approval, the
3 name and qualifications of a replacement monitor who will be assuming that responsibility within
4 15 calendar days. If Respondent fails to obtain approval of a replacement monitor within 60
5 calendar days of the resignation or unavailability of the monitor, Respondent shall receive a
6 notification from the Board or its designee to cease the practice of medicine within three (3)
7 calendar days after being so notified. Respondent shall cease the practice of medicine until a
8 replacement monitor is approved and assumes monitoring responsibility.

9 In lieu of a monitor, Respondent may participate in a professional enhancement program
10 approved in advance by the Board or its designee that includes, at minimum, quarterly chart
11 review, semi-annual practice assessment, and semi-annual review of professional growth and
12 education. Respondent shall participate in the professional enhancement program at Respondent's
13 expense during the term of probation.

14 5. NOTIFICATION. Within seven (7) days of the effective date of this Decision, the
15 Respondent shall provide a true copy of this Decision and Accusation to the Chief of Staff or the
16 Chief Executive Officer at every hospital where privileges or membership are extended to
17 Respondent, at any other facility where Respondent engages in the practice of medicine,
18 including all physician and locum tenens registries or other similar agencies, and to the Chief
19 Executive Officer at every insurance carrier which extends malpractice insurance coverage to
20 Respondent. Respondent shall submit proof of compliance to the Board or its designee within 15
21 calendar days.

22 This condition shall apply to any change(s) in hospitals, other facilities or insurance carrier.

23 6. SUPERVISION OF PHYSICIAN ASSISTANTS AND ADVANCED PRACTICE
24 NURSES. During probation, Respondent is prohibited from supervising physician assistants and
25 advanced practice nurses.

26 7. OBEY ALL LAWS. Respondent shall obey all federal, state and local laws, all rules
27 governing the practice of medicine in California and remain in full compliance with any court
28 ordered criminal probation, payments, and other orders.

1 8. QUARTERLY DECLARATIONS. Respondent shall submit quarterly declarations
2 under penalty of perjury on forms provided by the Board, stating whether there has been
3 compliance with all the conditions of probation.

4 Respondent shall submit quarterly declarations not later than 10 calendar days after the end
5 of the preceding quarter.

6 9. GENERAL PROBATION REQUIREMENTS.

7 Compliance with Probation Unit

8 Respondent shall comply with the Board's probation unit.

9 Address Changes

10 Respondent shall, at all times, keep the Board informed of Respondent's business and
11 residence addresses, email address (if available), and telephone number. Changes of such
12 addresses shall be immediately communicated in writing to the Board or its designee. Under no
13 circumstances shall a post office box serve as an address of record, except as allowed by Business
14 and Professions Code section 2021(b).

15 Place of Practice

16 Respondent shall not engage in the practice of medicine in Respondent's or patient's place
17 of residence, unless the patient resides in a skilled nursing facility or other similar licensed
18 facility.

19 License Renewal

20 Respondent shall maintain a current and renewed California physician's and surgeon's
21 license.

22 Travel or Residence Outside California

23 Respondent shall immediately inform the Board or its designee, in writing, of travel to any
24 areas outside the jurisdiction of California which lasts, or is contemplated to last, more than thirty
25 (30) calendar days.

26 In the event Respondent should leave the State of California to reside or to practice,
27 Respondent shall notify the Board or its designee in writing 30 calendar days prior to the dates of
28 departure and return.

1 10. INTERVIEW WITH THE BOARD OR ITS DESIGNEE. Respondent shall be
2 available in person upon request for interviews either at Respondent's place of business or at the
3 probation unit office, with or without prior notice throughout the term of probation.

4 11. NON-PRACTICE WHILE ON PROBATION. Respondent shall notify the Board or
5 its designee in writing within 15 calendar days of any periods of non-practice lasting more than
6 30 calendar days and within 15 calendar days of Respondent's return to practice. Non-practice is
7 defined as any period of time Respondent is not practicing medicine as defined in Business and
8 Professions Code sections 2051 and 2052 for at least 40 hours in a calendar month in direct
9 patient care, clinical activity or teaching, or other activity as approved by the Board. If
10 Respondent resides in California and is considered to be in non-practice, Respondent shall
11 comply with all terms and conditions of probation. All time spent in an intensive training
12 program which has been approved by the Board or its designee shall not be considered non-
13 practice and does not relieve Respondent from complying with all the terms and conditions of
14 probation. Practicing medicine in another state of the United States or Federal jurisdiction while
15 on probation with the medical licensing authority of that state or jurisdiction shall not be
16 considered non-practice. A Board-ordered suspension of practice shall not be considered as a
17 period of non-practice.

18 In the event Respondent's period of non-practice while on probation exceeds 18 calendar
19 months, Respondent shall successfully complete the Federation of State Medical Boards's Special
20 Purpose Examination, or, at the Board's discretion, a clinical competence assessment program
21 that meets the criteria of Condition 18 of the current version of the Board's "Manual of Model
22 Disciplinary Orders and Disciplinary Guidelines" prior to resuming the practice of medicine.

23 Respondent's period of non-practice while on probation shall not exceed two (2) years.

24 Periods of non-practice will not apply to the reduction of the probationary term.

25 Periods of non-practice for a Respondent residing outside of California will relieve
26 Respondent of the responsibility to comply with the probationary terms and conditions with the
27 exception of this condition and the following terms and conditions of probation: Obey All Laws;
28 General Probation Requirements; Quarterly Declarations; Abstain from the Use of Alcohol and/or

1 Controlled Substances; and Biological Fluid Testing.

2 12. COMPLETION OF PROBATION. Respondent shall comply with all financial
3 obligations (e.g., restitution, probation costs) not later than 120 calendar days prior to the
4 completion of probation. Upon successful completion of probation, Respondent's certificate shall
5 be fully restored.

6 13. VIOLATION OF PROBATION. Failure to fully comply with any term or condition
7 of probation is a violation of probation. If Respondent violates probation in any respect, the
8 Board, after giving Respondent notice and the opportunity to be heard, may revoke probation and
9 carry out the disciplinary order that was stayed. If an Accusation, or Petition to Revoke Probation,
10 or an Interim Suspension Order is filed against Respondent during probation, the Board shall have
11 continuing jurisdiction until the matter is final, and the period of probation shall be extended until
12 the matter is final.

13 14. LICENSE SURRENDER. Following the effective date of this Decision, if
14 Respondent ceases practicing due to retirement or health reasons or is otherwise unable to satisfy
15 the terms and conditions of probation, Respondent may request to surrender his or her license.
16 The Board reserves the right to evaluate Respondent's request and to exercise its discretion in
17 determining whether or not to grant the request, or to take any other action deemed appropriate
18 and reasonable under the circumstances. Upon formal acceptance of the surrender, Respondent
19 shall within 15 calendar days deliver Respondent's wallet and wall certificate to the Board or its
20 designee and Respondent shall no longer practice medicine. Respondent will no longer be subject
21 to the terms and conditions of probation. If Respondent re-applies for a medical license, the
22 application shall be treated as a petition for reinstatement of a revoked certificate.

23 15. PROBATION MONITORING COSTS. Respondent shall pay the costs associated
24 with probation monitoring each and every year of probation, as designated by the Board, which
25 may be adjusted on an annual basis. Such costs shall be payable to the Medical Board of
26 California and delivered to the Board or its designee no later than January 31 of each calendar
27 year.

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1 16. FUTURE ADMISSIONS CLAUSE. If Respondent should ever apply or reapply for
2 a new license or certification, or petition for reinstatement of a license, by any other health care
3 licensing action agency in the State of California, all of the charges and allegations contained in
4 Accusation No. 800-2018-040590 shall be deemed to be true, correct, and admitted by
5 Respondent for the purpose of any Statement of Issues or any other proceeding seeking to deny or
6 restrict license.

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1 ACCEPTANCE

2 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully
3 discussed it with my attorney, John H. Dodd. I understand the stipulation and the effect it will
4 have on my Physician's and Surgeon's Certificate. I enter into this Stipulated Settlement and
5 Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the
6 Decision and Order of the Medical Board of California.

7
8 DATED: 5/19/2021


9 ABBAS KASHANI M.D.
Respondent

10 I have read and fully discussed with Respondent Abbas Kashani, M.D. the terms and
11 conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order.
12 I approve its form and content.

13 DATED: May 19, 2021


14 JOHN H. DODD
Attorney for Respondent

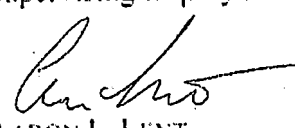
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16 ENDORSEMENT

17 The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully
18 submitted for consideration by the Medical Board of California.

19 DATED: June 2, 2021

Respectfully submitted,

20
21 ROB BONTA
Attorney General of California
22 STEVEN D. MUNI
Supervising Deputy Attorney General


23
24 AARON L. LENT
25 Deputy Attorney General
Attorneys for Complainant
26
27

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Kashani Stip2.docx

Exhibit A

Accusation No. 800-2018-040590

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8 *Attorneys for Complainant*

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10 **BEFORE THE**
MEDICAL BOARD OF CALIFORNIA
11 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA
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13 In the Matter of the Accusation Against:

Case No. 800-2018-040590

14 **Abbas Kashani, M.D.**
1234 E. North St. Ste. 202
15 Manteca, CA 95336

A C C U S A T I O N

16 **Physician's and Surgeon's Certificate**
No. A 82220,

17 Respondent.
18

19
20 **PARTIES**

21 1. William Prasifka (Complainant) brings this Accusation solely in his official capacity
22 as the Executive Director of the Medical Board of California, Department of Consumer Affairs
23 (Board).

24 2. On or about March 7, 2003, the Medical Board issued Physician's and Surgeon's
25 Certificate No. A 82220 to Abbas Kashani, M.D. (Respondent). The Physician's and Surgeon's
26 Certificate was in full force and effect at all times relevant to the charges brought herein and will
27 expire on August 31, 2022, unless renewed.

28 ///

JURISDICTION

3. This Accusation is brought before the Board, under the authority of the following laws. All section references are to the Business and Professions Code (Code) unless otherwise indicated.

4. Section 2227 of the Code states:

“(a) A licensee whose matter has been heard by an administrative law judge of the Medical Quality Hearing Panel as designated in Section 11371 of the Government Code, or whose default has been entered, and who is found guilty, or who has entered into a stipulation for disciplinary action with the board, may, in accordance with the provisions of this chapter:

“(1) Have his or her license revoked upon order of the board.

“(2) Have his or her right to practice suspended for a period not to exceed one year upon order of the board.

“(3) Be placed on probation and be required to pay the costs of probation monitoring upon order of the board.

“(4) Be publicly reprimanded by the board. The public reprimand may include a requirement that the licensee complete relevant educational courses approved by the board.

“(5) Have any other action taken in relation to discipline as part of an order of probation, as the board or an administrative law judge may deem proper.

“...”

5. Section 2234 of the Code states, in pertinent part:

“The board shall take action against any licensee who is charged with unprofessional conduct. In addition to other provisions of this article, unprofessional conduct includes, but is not limited to, the following:

“...”

“(b) Gross negligence.

“(c) Repeated negligent acts. To be repeated, there must be two or more negligent acts or omissions. An initial negligent act or omission followed by a separate and distinct departure from the applicable standard of care shall constitute repeated negligent acts.

“(1) An initial negligent diagnosis followed by an act or omission medically appropriate for that negligent diagnosis of the patient shall constitute a single negligent act.

“(2) When the standard of care requires a change in the diagnosis, act, or omission that constitutes the negligent act described in paragraph (1), including, but not limited to, a reevaluation of the diagnosis or a change in treatment, and the

1 licensee's conduct departs from the applicable standard of care, each departure
2 constitutes a separate and distinct breach of the standard of care.

3 "...

4 "(e) The commission of any act involving dishonesty or corruption that is
5 substantially related to the qualifications, functions, or duties of a physician and
6 surgeon.

7 "(f) Any action or conduct that would have warranted the denial of a certificate.

8 "..."

9 6. Unprofessional conduct under Section 2234 of the Code is conduct which breaches
10 the rules or ethical code of the medical profession, or conduct which is unbecoming to a member
11 in good standing of the medical profession, which demonstrates an unfitness to practice medicine.
12 (*Shea v. Board of Medical Examiners* (1978) 81 Cal.App.3d 564, 575.)

13 7. Section 2266 of the Code states: The failure of a physician and surgeon to maintain
14 adequate and accurate records relating to the provision of services to their patients constitutes
15 unprofessional conduct.

16 FIRST CAUSE FOR DISCIPLINE

17 (Gross Negligence)

18 8. Respondent Abbas Kashani, M.D. has subjected his Physician's and Surgeon's
19 Certificate No. A 82220 to disciplinary action under sections 2227 and 2234, as defined by
20 section 2234, subdivision (b), of the Code, in that he committed gross negligence in his care and
21 treatment of Patients L.B., R.T., and S.W.,¹ as more particularly alleged hereafter:

22 Patient L.B.

23 9. On or about May 3, 2018, Patient L.B., then a seventy-three-year old male, was
24 referred to and saw Respondent, a physician specializing in otolaryngology, by his physician with
25 complaints of throat discomfort, post nasal drip (P.N.D.), hoarseness, throat clearing, sinus
26 pressure, nasal congestion, plugged ears, and chronic sinusitis. Respondent examined Patient L.B.
27 via nasal endoscopy and diagnosed Patient L.B. with chronic sinus disease, a deviated nasal
28 septum (D.N.S.), and hypertrophied inferior turbinates.

¹ To protect the privacy of the patients involved, patient names were not included in this
pleading. Respondent is aware of the identity of each patient.

1 10. Respondent's medical records for Patient L.B. do not contain any indication that a
2 preoperative sinus computerized tomography (C.T.) scan, audiogram, or allergy testing was
3 ordered and/or conducted. In an interview with Board investigators, Respondent admitted that he
4 felt a C.T. scan was not indicated.

5 11. In an interview with Board investigators, Respondent explained he follows the
6 recommendation of the American Academy of Otolaryngology and Neck Surgery (AAOHN) as
7 to ordering preoperative sinus C.T. scans.

8 12. On or about May 24, 2018, Patient L.B. returned to Respondent's office for in-office
9 three endoscopic balloon sinuplasties (a medical procedure where balloons are used to dilate sinus
10 openings) and septoplasty (a surgical procedure to correct a deviated septum) procedures.
11 Respondent performed the following procedures: bilateral endoscopic balloon sphenoidotomies,
12 bilateral endoscopic balloon maxillary antrostomies, bilateral endoscopic balloon frontal
13 sinusotomies, and a septoplasty.

14 13. On or about May 25, 2018, Patient L.B. returned to Respondent's office for a post-
15 operative examination during which the nasal packing was removed.

16 14. On or about June 15, 2018, Patient L.B. returned to Respondent's office for a post-
17 operative examination during which Respondent performed an endoscopic sinus debridement.

18 Patient R.T.

19 15. On or about July 19, 2018, Patient R.T., then a forty-three-year old male, was self-
20 referred and saw Respondent, a physician specializing in otolaryngology, with complaints of left
21 Eustachian tube dysfunction, ear congestion, sinus pressure, nasal obstruction, sinus headaches,
22 and a history of tinnitus.

23 16. In an interview with Board investigators, Respondent stated he performed an
24 examination of Patient R.T. which included a hearing test and nasal endoscopy. Respondent told
25 investigators that he diagnosed Patient R.T. with a deviated nasal septum with near total
26 occlusion on the left side. Respondent recommended balloon sinuplasty, submucous ascension
27 and Eustachian tube dilation as a course of treatment.

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1 17. Respondent's medical records for Patient R.T. list under the procedure notes under
2 both pre and post-operative headings on or about August 2, 2018, diagnoses of chronic sinus
3 disease, nasal airway obstruction, and bilateral Eustachian tube dysfunction.

4 18. On or about August 2, 2018, Patient R.T. returned to Respondent's office for in-office
5 procedures where the Respondent performed: bilateral endoscopic balloon sphenoidotomies,
6 bilateral endoscopic balloon frontal sinusotomies, bilateral endoscopic balloon maxillary
7 antrostomies, septoplasty, and bilateral endoscopic balloon dilation of the Eustachian tubes. No
8 sinus C.T. scan was conducted or performed by Respondent either pre or post-operatively and no
9 laryngoscopy was conducted post-operatively.

10 19. In an interview with Board investigators, Respondent explained he follows the
11 recommendation of the American Academy of Otolaryngology and Neck Surgery (AAOHN) as
12 to ordering preoperative sinus C.T. scans.

13 20. There is no evidence in Respondent's medical records for Patient R.T. that the patient
14 was treated with antibiotics, decongestants, steroids, or was offered a tympanostomy with tubes to
15 treat his Eustachian tube dysfunction prior to the August 2, 2018 bilateral endoscopic balloon
16 dilation of the Eustachian tube procedure.

17 21. On or about August 3, 2018, Patient R.T. returned to Respondent's office for a post-
18 operative examination during which the nasal packing was removed.

19 22. On or about August 27, 2018, Patient R.T. returned to Respondent's office for a post-
20 operative examination during which Respondent performed an endoscopic sinus debridement
21 which revealed significant granulations and eschar.

22 Patient S.W.

23 23. On or about April 12, 2018, Patient S.W., then a seventy-two-year old female, was
24 self-referred and saw Respondent, a physician specializing in otolaryngology, with complaints of
25 nasal obstruction on the right side and intermittent plugging of the right ear. Patient S.W.
26 admitted to utilizing nasal sprays in an attempt to remedy these ailments. Respondent examined
27 Patient S.W. and according to Respondent's notes in the medical record for this visit and
28 Respondent's subsequent interview with investigators, diagnosed Patient S.W. with vertigo,

1 plugged ears, bilateral Eustachian tube dysfunction, deviated nasal septum, chronic sinus disease
2 and a post-nasal discharge. Respondent recommended in-office endoscopic balloon sinuplasties
3 as a course of treatment.

4 24. On or about April 19, 2018, Patient S.W. returned to Respondent's office for in-office
5 endoscopic balloon sinuplasties. Respondent performed the following procedures: bilateral
6 endoscopic balloon sphenoidotomies, bilateral endoscopic balloon maxillary antrostomies, and
7 bilateral endoscopic balloon frontal sinusotomies. No sinus C.T. scan, audiogram or
8 tympanogram was conduct or performed by Respondent preoperatively.

9 25. In an interview with Board investigators, Respondent stated that if a patient had a
10 nasal airway obstruction with drainage, that would necessitate that the patient has chronic sinus
11 disease. Respondent admitted that the C.T. scan is the gold standard if the physician believed that
12 an imaging study was required however, in the case of Patient S.W. according to the Respondent,
13 neither a C.T. scan nor an x-ray was required to confirm his diagnosis of chronic sinusitis.

14 26. In an interview with Board investigators, Respondent explained he follows the
15 recommendation of the American Academy of Otolaryngology and Neck Surgery (AAOHN) as
16 to ordering preoperative sinus C.T. scans.

17 27. On or about May 23, 2018 and November 2018, Patient S.W. returned to
18 Respondent's office for follow-up and post-operative examinations during which patient S.W.
19 complained of continued nasal congestion, plugged ears, and right Eustachian tube dysfunction.

20 28. On or about December 17, 2018, Patient S.W. returned to Respondent's office for in-
21 office endoscopic balloon sinuplasties and balloon dilation of the Eustachian tubes. Respondent
22 performed the following procedures: bilateral endoscopic balloon sphenoidotomies, bilateral
23 endoscopic balloon maxillary antrostomies, and bilateral endoscopic balloon frontal sinusotomies,
24 and bilateral balloon dilation of the Eustachian tubes. No sinus C.T. scan, audiogram or
25 tympanogram was conducted or performed by Respondent preoperatively.

26 29. On or about January 28, 2019, May 29, 2019, and December 2, 2019, Patient S.W.
27 returned to Respondent's office for follow-up and post-operative examinations.

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1 30. On or about January 16, 2020, Patient S.W. returned to Respondent's office for
2 follow-up examination at which time an audiogram was administered which revealed a sloping
3 sensorineural hearing loss and normal tympanometry.

4 31. Respondent committed gross negligence in his care and treatment of Patients L.B.,
5 R.T., and S.W. for performing the surgical procedures mentioned above without a preoperative
6 sinus C.T. scan to document sinus anatomy, locate sinus pathology, confirm the diagnosis of
7 chronic sinusitis, and without attempting maximal medical therapy first.

8 **SECOND CAUSE FOR DISCIPLINE**

9 **(Repeated Negligent Acts)**

10 32. Respondent Abbas Kashani, M.D. has further subjected his Physician's and
11 Surgeon's Certificate No. A 82220 to disciplinary action under sections 2227 and 2234, as
12 defined by section 2234, subdivision (c), of the Code, in that he committed repeated negligent
13 acts in his care and treatment of Patients C.H., R.J., G.A. L.B., R.F., R.T., S.W., and C.B, as more
14 particularly alleged hereafter:

15 33. Complainant realleges paragraphs 8 through 31, and those paragraphs are
16 incorporated by reference as if fully set forth herein.

17 **Patient C.H.**

18 34. On or about December 8, 2016, Patient C.H., then an obese thirty-six-year old female,
19 saw Respondent, a physician specializing in otolaryngology, for plugged ears. Prior to this date,
20 Patient C.H. had been treated by Respondent in 2010 for chronic sinus disease with a septoplasty.
21 Patient C.H. also suffered from obstructive sleep apnea and was utilizing a continuous positive
22 airway pressure (CPAP) machine.

23 35. Respondent's handwritten notes in the medical record for this visit on or about
24 December 8, 2016, were exceedingly short and extremely difficult to decipher. In an interview
25 with Board investigators, Respondent stated that Patient C.H.'s ears were examined as well as the
26 oral cavity and oropharyngeal parts of the nasal frame of the pharyngeal conduit. According to
27 Respondent's interview responses, Patient C.H. suffered from enlarged tonsils and a deviated
28 nasal septum with large amounts of secretions. Respondent expressed his assessment and plan of

1 Patient C.H. was chronic sinus disease requiring a balloon sinuplasty. Respondent stated that he
2 treated Patient C.H. with steroids and antibiotics. Given the legibility issues of Respondent's
3 handwritten notes in the medical record, Respondent explained that he creates a digital record of
4 the patient visit usually by the next day.

5 36. On or about January 25, 2017, Patient C.H. returned to Respondent's office for a
6 follow-up visit regarding her sinusitis and plugged ears.

7 37. Respondent's handwritten notes in the medical record for this visit on or about
8 January 25, 2017, were exceedingly short and extremely difficult to decipher. In an interview
9 with Board investigators, Respondent stated that he determined a balloon sinuplasty was
10 necessary and admitted that he did not send Patient C.H. for any kind of preoperative sinus
11 imaging, C.T. or otherwise, to determine and/or verify the status of her sinuses prior to or on the
12 day of the scheduled balloon sinuplasty on January 27, 2017. Respondent justified the lack of
13 imaging for the 2017 balloon sinuplasty insofar as had he operated on Patient C.H. in 2010 for
14 which Respondent claimed he conducted an imaging study then, and therefore he did not need to
15 do another in 2017. During that same interview with investigators, Respondent explained he
16 follows the recommendation of the American Academy of Otolaryngology and Neck Surgery
17 (AAOHN) as to ordering preoperative sinus C.T. scans.

18 38. On or about January 27, 2017, Patient C.H. returned to Respondent's office for an in-
19 office balloon sinuplasty procedure.

20 39. Respondent's handwritten notes in the medical record for this visit on or about
21 January 27, 2017, were exceedingly short and extremely difficult to decipher. In an interview
22 with Board investigators, Respondent stated that he conducted the balloon sinuplasty procedure
23 and not a septoplasty on Patient C.H. in which there were no complications and no estimated
24 blood loss.

25 Patient R.J.

26 40. On or about December 21, 2017, Patient R.J., then a fifty-six-year old male, was
27 referred to and saw Respondent, a physician specializing in otolaryngology, by his primary care
28 physician for difficulty hearing, sinus pressure, trouble swallowing, and tinnitus. There was no

1 documentation in Respondent's medical records for Patient R.J. as to actual previous or
2 concurrent medical treatment(s) and/or medications prior to this consultation.

3 41. In an interview with Board investigators, Respondent stated he performed an
4 examination of Patient R.J. which included a hearing test and tympanogram. Respondent
5 diagnosed Patient R.J. with chronic sinus disease and deviated nasal septum after using an
6 endoscope to evaluate the patient's nasal cavity and a fiber optic examination of his larynx.
7 Respondent recommended a septoplasty and balloon sinuplasty be performed however,
8 Respondent did not conduct a preoperative sinus C.T. scan.

9 42. On or about January 18, 2018, Patient R.J. returned to Respondent's office for in-
10 office balloon sinuplasty and septoplasty procedures.

11 43. On or about February 8, 2018, Patient R.J. returned to Respondent's office for a post-
12 operative examination. Respondent performed an endoscopic sinus debridement. Patient R.J. had
13 no perforation and mild debridement.

14 44. On or about June 6, 2018, Patient R.J. returned to Respondent's office for a four-
15 month follow-up visit.

16 45. On or about July 1, 2019, Patient R.J. returned to Respondent's office with
17 complaints of sinus congestion and discomfort as well as reported episodes of vertigo occurring
18 within the prior two months. In an interview with Board investigators, Respondent stated he
19 "scoped" Patient R.J.'s nasal cavity but did not perform an audiogram or any Eustachian tube
20 function testing such as a tympanogram, nor did Respondent conduct any x-rays or C.T. scan of
21 Patient R.J.'s sinuses or mastoids. Respondent did not conduct a neurological examination or an
22 audiometric evaluation, including any vestibular tests, on Patient R.J. Rather, Respondent treated
23 Patient R.J. with antibiotics, an antihistamine and anti-inflammatory.

24 46. On or about July 18, 2019, Patient R.J. returned to Respondent's office for in-office
25 balloon sinuplasty and bilateral Eustachian tube dilation procedures.

26 47. On or about August 7, 2019, Patient R.J. returned to Respondent's office for a post-
27 operative examination. Respondent performed a sinus endoscopy but conducted no
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1 evaluation/examination of the ears and no evaluation of Patient R.J.'s vertigo. Rather, Patient R.J.
2 received an antihistamine and antibiotics.

3 Patient G.A.

4 48. On or about January 12, 2017, Patient G.A., then a sixty-two-year old female, was
5 referred to and saw Respondent, a physician specializing in otolaryngology, by her primary care
6 physician with complaints of dizziness, sinus headaches, plugged ears, fluid and ringing in her
7 ears, and sinus pressure. There was no documentation in Respondent's medical records for Patient
8 G.A. as to actual previous or concurrent medical treatment(s) and/or medications prior to this
9 consultation.

10 49. Respondent's handwritten notes in the medical record for this visit on or about
11 January 12, 2017, were exceedingly short and extremely difficult to decipher. In an interview
12 with Board investigators, Respondent stated he examined Patient G.A. by conducting a hearing
13 test, ear examination, and a sinus endoscopy. According to Respondent's interview responses,
14 Respondent diagnosed Patient G.A. with vertigo, chronic sinus disease, a deviated septum, and
15 hypertrophied turbinates (long narrow shelves of bone protruding into the breathing passage of
16 the nose) requiring a balloon sinuplasty and a septoplasty. Respondent admitted to investigators
17 that he administered no trials of medical management to Patient G.A. nor did he obtain or conduct
18 any imaging studies, e.g. a sinus C.T. scan, of Patient G.A. During that same interview with
19 investigators, Respondent explained he follows his own criteria as to whether a patient should
20 have a C.T. scan or a magnetic resonance imaging (M.R.I.) and that criteria is the criteria of the
21 AAOHN which Respondent claimed is "absolutely based upon the discretion of the attending
22 otolaryngologist."

23 50. In the interview with Board investigators, Respondent was also asked if he requested
24 a copy of Patient G.A.'s medical records from her primary care physician so that Respondent
25 might review the treatment that was given to Patient G.A. including, but not limited to,
26 procedures, tests, and medications. Respondent stated he did not. Respondent was also asked if
27 he documented in his medical records of Patient G.A. what treatments were successful or

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1 unsuccessful leading Respondent to conclude that a surgical procedure was needed. Again,
2 Respondent indicated that he did not.

3 51. On or about January 25, 2017, Patient G.A. returned to Respondent's office for an in-
4 office balloon sinuplasty and septoplasty procedures.

5 52. On or about February 15, 2017, Patient G.A. returned to Respondent's office for a
6 post-operative examination. Respondent performed an endoscopic sinus debridement.

7 53. Respondent's handwritten notes in the medical record for this visit on or about
8 February 15, 2017, were exceedingly short and extremely difficult to decipher. In an interview
9 with Board investigators, Respondent stated that Patient G.A. exhibited no signs of vertigo and
10 had improved breathing but still had headaches.

11 Patient C.B.

12 54. On or about February 3, 2017, Patient C.B., then a seventy-eight-year old female, was
13 referred to and saw Respondent, a physician specializing in otolaryngology, by her cardiologist
14 after being admitted to the emergency room department at San Joaquin General Hospital where
15 she had been treated with nasal packing for recurrent nose bleeds. Patient C.B. suffered from
16 atrial fibrillation, sick sinus syndrome, pacemaker implantation, aortic valve replacement, severe
17 coronary atherosclerosis, hypertension, diabetes, and a history of polyposis. Patient C.B. was also
18 taking anticoagulants and blood thinning medications.

19 55. In an interview with Board investigators, Respondent stated he examined Patient C.B.
20 by conducting a sinus endoscopy and diagnosed her with an epistaxis, deviated nasal septum
21 (D.N.S.) and chronic sinusitis, to which Respondent recommended in-office septoplasty and
22 balloon sinusplasty procedures as treatments. Respondent admitted to investigators that no C.T.
23 scan was obtained of Patient C.B.'s sinuses and he further acknowledged that Patient C.B. posed
24 a higher than average risk than other patients.

25 56. On or about February 20, 2017, Patient C.B. returned to Respondent's office for an
26 in-office balloon sinuplasty and septoplasty procedures. In an interview with Board investigators,
27 Respondent admitted that his office was not equipped with a cardiac monitor or a crash cart.

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1 Respondent also stated that it was significantly safer to perform the procedures in his office given
2 the patient's age and history of complications than as an outpatient with monitoring at a hospital.

3 57. On or about February 21, 2017, Patient C.B. returned to Respondent's office for a
4 post-operative examination during which the nasal packing was removed.

5 58. On or about February 27, 2017, Patient C.B. was scheduled to return to Respondent's
6 office for a post-operative examination however, Patient C.B.'s family contacted Respondent and
7 informed him Patient C.B. was not feeling well, not eating well, was lethargic, vomited, and had
8 some nose pain with some tingling in her mouth.

9 Patient R.F.

10 59. On or about December 13, 2017, Patient R.F., then a twenty-nine-year old male, was
11 referred to and saw Respondent, a physician specializing in otolaryngology, by his physician with
12 complaints of one-sided nasal obstruction and difficulty breathing through his nasal cavity.
13 Respondent examined Patient R.F. via nasal endoscopy and according to Respondent's notes in
14 the medical record for this visit and Respondent's subsequent interview with Board investigators,
15 diagnosed Patient R.F. with D.N.S., to which Respondent recommended in-office septoplasty and
16 a turbinate reduction as treatments. Respondent did not make a diagnosis of recurrent or chronic
17 sinusitis.

18 60. In an interview with Board investigators, Respondent stated Patient R.F. inquired
19 about having a balloon sinusplasty procedure as well. Respondent told investigators that Patient
20 R.F.'s insurance carrier would not cover the cost of a balloon sinusplasty procedure, so
21 Respondent suggested using a balloon sinuplasty with the Entellus Balloon instead.

22 61. On or about December 19, 2017, Patient R.F. returned to Respondent's office for in-
23 office balloon sinuplasty with the Entellus Balloon and septoplasty.

24 62. On or about December 20, 2017, Patient R.F. returned to Respondent's office for a
25 post-operative examination during which the nasal packing was removed.

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1 **THIRD CAUSE FOR DISCIPLINE**

2 **(Failure to Maintain Adequate and Accurate Medical Records)**

3 63. Respondent Abbas Kashani, M.D. has further subjected his Physician's and
4 Surgeon's Certificate No. A 82220 to disciplinary action under sections 2227 and 2234, as
5 defined by section 2266 of the Code, in that he failed to maintain adequate and accurate medical
6 records for C.H., R.J., and G.A., as more particularly alleged in paragraphs 8 through 62, above,
7 which are hereby incorporated by reference and re-alleged as if fully set forth herein.

8 **FOURTH CAUSE FOR DISCIPLINE**

9 **(General Unprofessional Conduct)**

10 64. Respondent Abbas Kashani, M.D. has further subjected his Physician's and
11 Surgeon's Certificate No. A 82220 to disciplinary action under sections 2227 and 2234, as
12 defined by section 2234 of the Code, in that he has engaged in conduct which breaches the rules
13 or ethical code of the medical profession, or conduct which is unbecoming of a member in good
14 standing to his care and treatment of Patients C.H., R.J., G.A., L.B., R.F., R.T., S.W. and C.B., as
15 more particularly alleged in paragraphs 8 through 63, above, which are hereby incorporated by
16 reference and re-alleged as if fully set forth herein.

17 **DISCIPLINARY CONSIDERATIONS**

18 65. To determine the degree of discipline, if any, to be imposed on Respondent Abbas
19 Kashani, M.D., Complainant alleges that on or about August 28, 2020, in a prior disciplinary
20 action titled "In the Matter of the First Amended Accusation Against Abbas Kashani, M.D."
21 before the Medical Board of California, in Case Number 800-2016-022369, Respondent's license
22 was revoked but stayed and Respondent was placed on probation for three years with terms and
23 conditions for gross negligence, repeated negligent acts, failure to maintain adequate and accurate
24 medical records, public communication containing a false, misleading or deceptive statement, and
25 dishonesty or corruption. That decision is now final and is incorporated by reference as if fully set
26 forth herein.

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1 PRAYER

2 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
3 and that following the hearing, the Medical Board of California issue a decision:


4 1. Revoking or suspending Physician's and Surgeon's Certificate No. A 82220, issued to
5 Abbas Kashani, M.D.;

6 2. Revoking, suspending or denying approval of Abbas Kashani, M.D.'s authority to
7 supervise physician assistants and advanced practice nurses;

8 3. Ordering Abbas Kashani, M.D., if placed on probation, to pay the Board the costs of
9 probation monitoring; and

10 4. Taking such other and further action as deemed necessary and proper.

11
12 DATED: JAN 26 2021



WILLIAM PRASIFKA
Executive Director
Medical Board of California
Department of Consumer Affairs
State of California
Complainant

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Exhibit B

First Amended Accusation No. 800-2016-022369

BEFORE THE
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the First Amended
Accusation Against

Abbas Kashani, M.D.

Physician's and Surgeon's
License No. A82220

Case No. 800-2016-022369

Respondent.

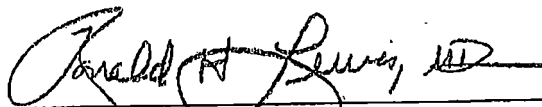
DECISION

The attached Stipulated Settlement and Disciplinary Order is hereby adopted as the Decision and Order of the Medical Board of California, Department of Consumer Affairs, State of California.

This Decision shall become effective at 5:00 p.m. on August 28, 2020.

IT IS SO ORDERED: July 29, 2020.

MEDICAL BOARD OF CALIFORNIA



Ronald H. Lewis, M.D., Chair
Panel A

1 XAVIER BECERRA
Attorney General of California
2 ALEXANDRA M. ALVAREZ
Supervising Deputy Attorney General
3 AARON L. LENT
Deputy Attorney General
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6 Telephone: (916) 210-7545
Facsimile: (916) 327-2247
7

8 *Attorneys for Complainant*

9
10 **BEFORE THE**
MEDICAL BOARD OF CALIFORNIA
11 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA
12

13 In the Matter of the First Amended Accusation
Against:

14 **ABBAS KASHANI, M.D.**
15 **1234 E. North St. Ste. 202**
Manteca, CA 95336

16 **Physician's and Surgeon's Certificate**
17 **No. A 82220**

18 **Respondent.**

Case No. 800-2016-022369

OAH No. 2019110855

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

19
20 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
21 entitled proceedings that the following matters are true:

22 **PARTIES**

23 1. Christine J. Lally (Complainant) is the Interim Deputy Director of the Medical Board
24 of California (Board). This action was brought by then Complainant Kimberly Kirchmeyer solely
25 in her official capacity.¹ Complainant is represented in this matter by Xavier Becerra, Attorney
26 General of the State of California, by Aaron L. Lent, Deputy Attorney General.
27

28 ¹ Ms. Kirchmeyer became the Director of the Department of Consumer Affairs on October 28, 2019.

1 2. Respondent Abbas Kashani, M.D. (Respondent) is represented in this proceeding by
2 attorney John H. Dodd, Esq., whose address is: 2420 Camino Ramon, Suite 202 San Ramon, CA
3 94583-4202.

4 3. On or about March 7, 2003, the Board issued Physician's and Surgeon's Certificate
5 No. A 82220 to Abbas Kashani, M.D. (Respondent). The Physician's and Surgeon's Certificate
6 was in full force and effect at all times relevant to the charges brought in First Amended
7 Accusation No. 800-2016-022369, and will expire on August 31, 2020, unless renewed.

8 **JURISDICTION**

9 4. The First Amended Accusation No. 800-2016-022369 was filed before the Board, and
10 is currently pending against Respondent. The First Amended Accusation and all other statutorily
11 required documents were properly served on Respondent on June 20, 2019. Respondent timely
12 filed his Notice of Defense contesting the First Amended Accusation.

13 5. A copy of the First Amended Accusation No. 800-2016-022369 is attached as Exhibit
14 A and incorporated herein by reference.

15 **ADVISEMENT AND WAIVERS**

16 6. Respondent has carefully read, fully discussed with counsel, and understands the
17 charges and allegations in the First Amended Accusation No. 800-2016-022369. Respondent has
18 also carefully read, fully discussed with counsel, and understands the effects of this Stipulated
19 Settlement and Disciplinary Order.

20 7. Respondent is fully aware of his legal rights in this matter, including the right to a
21 hearing on the charges and allegations in the First Amended Accusation; the right to confront and
22 cross-examine the witnesses against him; the right to present evidence and to testify on his own
23 behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the
24 production of documents; the right to reconsideration and court review of an adverse decision;
25 and all other rights accorded by the California Administrative Procedure Act and other applicable
26 laws.

27 8. Respondent voluntarily, knowingly, and intelligently waives and gives up each and
28 every right set forth above.

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1 to adopt this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary
2 Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal
3 action between the parties, and the Board shall not be disqualified from further action by having
4 considered this matter.

5 15. The parties understand and agree that Portable Document Format (PDF) and facsimile
6 copies of this Stipulated Settlement and Disciplinary Order, including PDF and facsimile
7 signatures thereto, shall have the same force and effect as the originals.

8 16. In consideration of the foregoing admissions and stipulations, the parties agree that
9 the Board may, without further notice or formal proceeding, issue and enter the following
10 Disciplinary Order:

11 **DISCIPLINARY ORDER**

12 IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. A 82220 issued
13 to Respondent Abbas Kashani, M.D. is revoked. However, the revocation is stayed and
14 Respondent is placed on probation for three (3) years from the effective date of the decision on
15 the following terms and conditions.

16 1. **STANDARD STAY ORDER.** However, revocation stayed and Respondent is placed
17 on probation for three years upon the following terms and conditions.

18 2. **EDUCATION COURSE.** Within 60 calendar days of the effective date of this
19 Decision, and on an annual basis thereafter, Respondent shall submit to the Board or its designee
20 for its prior approval educational program(s) or course(s) which shall not be less than 40 hours
21 per year, for each year of probation. The educational program(s) or course(s) shall be aimed at
22 correcting any areas of deficient practice or knowledge and shall be Category I certified. The
23 educational program(s) or course(s) shall be at Respondent's expense and shall be in addition to
24 the Continuing Medical Education (CME) requirements for renewal of licensure. Following the
25 completion of each course, the Board or its designee may administer an examination to test
26 Respondent's knowledge of the course. Respondent shall provide proof of attendance for 65
27 hours of CME of which 40 hours were in satisfaction of this condition.

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1 3. MEDICAL RECORD KEEPING COURSE. Within 60 calendar days of the effective
2 date of this Decision, Respondent shall enroll in a course in medical record keeping approved in
3 advance by the Board or its designee. Respondent shall provide the approved course provider
4 with any information and documents that the approved course provider may deem pertinent.
5 Respondent shall participate in and successfully complete the classroom component of the course
6 not later than six (6) months after Respondent's initial enrollment. Respondent shall successfully
7 complete any other component of the course within one (1) year of enrollment. The medical
8 record keeping course shall be at Respondent's expense and shall be in addition to the Continuing
9 Medical Education (CME) requirements for renewal of licensure.

10 A medical record keeping course taken after the acts that gave rise to the charges in the
11 Accusation, but prior to the effective date of the Decision may, in the sole discretion of the Board
12 or its designee, be accepted towards the fulfillment of this condition if the course would have
13 been approved by the Board or its designee had the course been taken after the effective date of
14 this Decision.

15 Respondent shall submit a certification of successful completion to the Board or its
16 designee not later than 15 calendar days after successfully completing the course, or not later than
17 15 calendar days after the effective date of the Decision, whichever is later.

18 4. MONITORING - PRACTICE. Within 30 calendar days of the effective date of this
19 Decision, Respondent shall submit to the Board or its designee for prior approval as a practice
20 monitor(s), the name and qualifications of one or more licensed physicians and surgeons whose
21 licenses are valid and in good standing, and who are preferably American Board of Medical
22 Specialties (ABMS) certified. A monitor shall have no prior or current business or personal
23 relationship with Respondent, or other relationship that could reasonably be expected to
24 compromise the ability of the monitor to render fair and unbiased reports to the Board, including
25 but not limited to any form of bartering, shall be in Respondent's field of practice, and must agree
26 to serve as Respondent's monitor. Respondent shall pay all monitoring costs.

27 The Board or its designee shall provide the approved monitor with copies of the Decision(s)
28 and Accusation(s), and a proposed monitoring plan. Within 15 calendar days of receipt of the

1 Decision(s), Accusation(s), and proposed monitoring plan, the monitor shall submit a signed
2 statement that the monitor has read the Decision(s) and Accusation(s), fully understands the role
3 of a monitor, and agrees or disagrees with the proposed monitoring plan. If the monitor disagrees
4 with the proposed monitoring plan, the monitor shall submit a revised monitoring plan with the
5 signed statement for approval by the Board or its designee.

6 Within 60 calendar days of the effective date of this Decision, and continuing throughout
7 probation, Respondent's practice monitor(s) shall be monitored by the approved monitor.
8 Respondent shall make all records available for immediate inspection and copying on the
9 premises by the monitor at all times during business hours and shall retain the records for the
10 entire term of probation.

11 If Respondent fails to obtain approval of a monitor within 60 calendar days of the effective
12 date of this Decision, Respondent shall receive a notification from the Board or its designee to
13 cease the practice of medicine within three (3) calendar days after being so notified. Respondent
14 shall cease the practice of medicine until a monitor is approved to provide monitoring
15 responsibility.

16 The monitor(s) shall submit a quarterly written report to the Board or its designee which
17 includes an evaluation of Respondent's performance, indicating whether Respondent's practices
18 are within the standards of practice of practice monitor(s), and whether Respondent is practicing
19 medicine safely, billing appropriately or both. It shall be the sole responsibility of Respondent to
20 ensure that the monitor submits the quarterly written reports to the Board or its designee within
21 10 calendar days after the end of the preceding quarter.

22 If the monitor resigns or is no longer available, Respondent shall, within 5 calendar days of
23 such resignation or unavailability, submit to the Board or its designee, for prior approval, the
24 name and qualifications of a replacement monitor who will be assuming that responsibility within
25 15 calendar days. If Respondent fails to obtain approval of a replacement monitor within 60
26 calendar days of the resignation or unavailability of the monitor, Respondent shall receive a
27 notification from the Board or its designee to cease the practice of medicine within three (3)
28 calendar days after being so notified. Respondent shall cease the practice of medicine until a

1 replacement monitor is approved and assumes monitoring responsibility.

2 In lieu of a monitor, Respondent may participate in a professional enhancement program
3 approved in advance by the Board or its designee that includes, at minimum, quarterly chart
4 review, semi-annual practice assessment, and semi-annual review of professional growth and
5 education. Respondent shall participate in the professional enhancement program at Respondent's
6 expense during the term of probation.

7 5. NOTIFICATION. Within seven (7) days of the effective date of this Decision, the
8 Respondent shall provide a true copy of this Decision and Accusation to the Chief of Staff or the
9 Chief Executive Officer at every hospital where privileges or membership are extended to
10 Respondent, at any other facility where Respondent engages in the practice of medicine,
11 including all physician and locum tenens registries or other similar agencies, and to the Chief
12 Executive Officer at every insurance carrier which extends malpractice insurance coverage to
13 Respondent. Respondent shall submit proof of compliance to the Board or its designee within 15
14 calendar days.

15 This condition shall apply to any change(s) in hospitals, other facilities or insurance carrier.

16 6. SUPERVISION OF PHYSICIAN ASSISTANTS AND ADVANCED PRACTICE
17 NURSES. During probation, Respondent is prohibited from supervising physician assistants and
18 advanced practice nurses.

19 7. OBEY ALL LAWS. Respondent shall obey all federal, state and local laws, all rules
20 governing the practice of medicine in California and remain in full compliance with any court
21 ordered criminal probation, payments, and other orders.

22 8. QUARTERLY DECLARATIONS. Respondent shall submit quarterly declarations
23 under penalty of perjury on forms provided by the Board, stating whether there has been
24 compliance with all the conditions of probation.

25 Respondent shall submit quarterly declarations not later than 10 calendar days after the end
26 of the preceding quarter.

27 ///

28 ///

1 9. GENERAL PROBATION REQUIREMENTS.

2 Compliance with Probation Unit

3 Respondent shall comply with the Board's probation unit.

4 Address Changes

5 Respondent shall, at all times, keep the Board informed of Respondent's business and
6 residence addresses, email address (if available), and telephone number. Changes of such
7 addresses shall be immediately communicated in writing to the Board or its designee. Under no
8 circumstances shall a post office box serve as an address of record, except as allowed by Business
9 and Professions Code section 2021(b).

10 Place of Practice

11 Respondent shall not engage in the practice of medicine in Respondent's or patient's place
12 of residence, unless the patient resides in a skilled nursing facility or other similar licensed
13 facility.

14 License Renewal

15 Respondent shall maintain a current and renewed California physician's and surgeon's
16 license.

17 Travel or Residence Outside California

18 Respondent shall immediately inform the Board or its designee, in writing, of travel to any
19 areas outside the jurisdiction of California which lasts, or is contemplated to last, more than thirty
20 (30) calendar days.

21 In the event Respondent should leave the State of California to reside or to practice,
22 Respondent shall notify the Board or its designee in writing 30 calendar days prior to the dates of
23 departure and return.

24 10. INTERVIEW WITH THE BOARD OR ITS DESIGNEE. Respondent shall be
25 available in person upon request for interviews either at Respondent's place of business or at the
26 probation unit office, with or without prior notice throughout the term of probation.

27 11. NON-PRACTICE WHILE ON PROBATION. Respondent shall notify the Board or
28 its designee in writing within 15 calendar days of any periods of non-practice lasting more than

1 30 calendar days and within 15 calendar days of Respondent's return to practice. Non-practice is
2 defined as any period of time Respondent is not practicing medicine as defined in Business and
3 Professions Code sections 2051 and 2052 for at least 40 hours in a calendar month in direct
4 patient care, clinical activity or teaching, or other activity as approved by the Board. If
5 Respondent resides in California and is considered to be in non-practice, Respondent shall
6 comply with all terms and conditions of probation. All time spent in an intensive training
7 program which has been approved by the Board or its designee shall not be considered non-
8 practice and does not relieve Respondent from complying with all the terms and conditions of
9 probation. Practicing medicine in another state of the United States or Federal jurisdiction while
10 on probation with the medical licensing authority of that state or jurisdiction shall not be
11 considered non-practice. A Board-ordered suspension of practice shall not be considered as a
12 period of non-practice.

13 In the event Respondent's period of non-practice while on probation exceeds 18 calendar
14 months, Respondent shall successfully complete the Federation of State Medical Boards's Special
15 Purpose Examination, or, at the Board's discretion, a clinical competence assessment program
16 that meets the criteria of Condition 18 of the current version of the Board's "Manual of Model
17 Disciplinary Orders and Disciplinary Guidelines" prior to resuming the practice of medicine.

18 Respondent's period of non-practice while on probation shall not exceed two (2) years.

19 Periods of non-practice will not apply to the reduction of the probationary term.

20 Periods of non-practice for a Respondent residing outside of California will relieve
21 Respondent of the responsibility to comply with the probationary terms and conditions with the
22 exception of this condition and the following terms and conditions of probation: Obey All Laws;
23 General Probation Requirements; Quarterly Declarations; Abstain from the Use of Alcohol and/or
24 Controlled Substances; and Biological Fluid Testing.

25 12. COMPLETION OF PROBATION. Respondent shall comply with all financial
26 obligations (e.g., restitution, probation costs) not later than 120 calendar days prior to the
27 completion of probation. Upon successful completion of probation, Respondent's certificate shall
28 be fully restored.

1 13. VIOLATION OF PROBATION. Failure to fully comply with any term or condition
2 of probation is a violation of probation. If Respondent violates probation in any respect, the
3 Board, after giving Respondent notice and the opportunity to be heard, may revoke probation and
4 carry out the disciplinary order that was stayed. If an Accusation, or Petition to Revoke Probation,
5 or an Interim Suspension Order is filed against Respondent during probation, the Board shall have
6 continuing jurisdiction until the matter is final, and the period of probation shall be extended until
7 the matter is final.

8 14. LICENSE SURRENDER. Following the effective date of this Decision, if
9 Respondent ceases practicing due to retirement or health reasons or is otherwise unable to satisfy
10 the terms and conditions of probation, Respondent may request to surrender his or her license.
11 The Board reserves the right to evaluate Respondent's request and to exercise its discretion in
12 determining whether or not to grant the request, or to take any other action deemed appropriate
13 and reasonable under the circumstances. Upon formal acceptance of the surrender, Respondent
14 shall within 15 calendar days deliver Respondent's wallet and wall certificate to the Board or its
15 designee and Respondent shall no longer practice medicine. Respondent will no longer be subject
16 to the terms and conditions of probation. If Respondent re-applies for a medical license, the
17 application shall be treated as a petition for reinstatement of a revoked certificate.

18 15. PROBATION MONITORING COSTS. Respondent shall pay the costs associated
19 with probation monitoring each and every year of probation, as designated by the Board, which
20 may be adjusted on an annual basis. Such costs shall be payable to the Medical Board of
21 California and delivered to the Board or its designee no later than January 31 of each calendar
22 year.

23 ///

24 ///

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26 ///

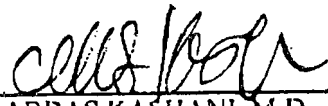
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28 ///

1 ACCEPTANCE


2 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully
3 discussed it with my attorney, John H. Dodd, Esq. I understand the stipulation and the effect it
4 will have on my Physician's and Surgeon's Certificate. I enter into this Stipulated Settlement and
5 Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the
6 Decision and Order of the Medical Board of California.

7
8 DATED: 4/27/2020


9 ABBAS KASHANI, M.D.
Respondent

10 I have read and fully discussed with Respondent Abbas Kashani, M.D. the terms and
11 conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order
12 I approve its form and content.

13 DATED: 4/28/20


14 JOHN H. DODD, ESQ.
Attorney for Respondent

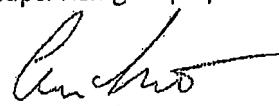
15
16 ENDORSEMENT

17 The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully
18 submitted for consideration by the Medical Board of California.

19 DATED: April 28, 2020

Respectfully submitted,

20
21 XAVIER BECERRA
Attorney General of California
22 ALEXANDRA M. ALVAREZ,
Supervising Deputy Attorney General


23
24 AARON L. LENT
Deputy Attorney General
25 Attorneys for Complainant

26
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Attorneys for Complainant

FILED
STATE OF CALIFORNIA
MEDICAL BOARD OF CALIFORNIA
SACRAMENTO JUL 30 2019
BY: [Signature] ANALYST

BEFORE THE
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the First Amended Accusation
Against:

ABBAS KASHANI, M.D.
1234 E. North St. Ste. 202
Manteca, CA 95336

Physician's and Surgeon's Certificate
No. A82220,

Respondent.

Case No. 800-2016-022369

FIRST AMENDED ACCUSATION

Complainant alleges:

PARTIES

1. Kimberly Kirchmeyer (Complainant) brings this First Amended Accusation solely in her official capacity as the Executive Director of the Medical Board of California, Department of Consumer Affairs (Board).

2. On or about March 7, 2003, the Medical Board issued Physician's and Surgeon's Certificate No. A82220 to Abbas Kashani, M.D. (Respondent). Physician's and Surgeon's Certificate No. A82220 was in full force and effect at all times relevant to the charges brought herein and will expire on August 31, 2020, unless renewed.

///

JURISDICTION

3. This First Amended Accusation, which supersedes the Accusation filed on May 3, 2019, is brought before the Board, under the authority of the following laws. All section references are to the Business and Professions Code (Code) unless otherwise indicated.

4. Section 2227 of the Code states, in pertinent part:

“(a) A licensee whose matter has been heard by an administrative law judge of the Medical Quality Hearing Panel as designated in Section 11371 of the Government Code, or whose default has been entered, and who is found guilty, or who has entered into a stipulation for disciplinary action with the board, may, in accordance with the provisions of this chapter:

“(1) Have his or her license revoked upon order of the board.

“(2) Have his or her right to practice suspended for a period not to exceed one year upon order of the board.

“(3) Be placed on probation and be required to pay the costs of probation monitoring upon order of the board.

“(4) Be publicly reprimanded by the board. The public reprimand may include a requirement that the licensee complete relevant educational courses approved by the board.

“(5) Have any other action taken in relation to discipline as part of an order of probation, as the board or an administrative law judge may deem proper.

“...”

5. Section 651 of the Code states, in pertinent part:

“(a) It is unlawful for any person licensed under this division or under any initiative act referred to in this division to disseminate or cause to be disseminated any form of public communication containing a false, fraudulent, misleading, or deceptive statement, claim, or image for the purpose of or likely to induce, directly or indirectly, the rendering of professional services or furnishing of products in connection with the professional practice or business for which he or she is licensed. A ‘public

1 communication' as used in this section includes, but is not limited to, communication
2 by means of mail, television, radio, motion pictures, newspaper, book, list or directly of
3 healing arts practitioners, Internet, or other electronic communication.

4 "(b) A false, fraudulent, misleading, or deceptive statement, claim or image
5 includes a statement that does any of the following:

6 "(1) Contains a misrepresentation of fact.

7 "(2) Is likely to mislead or deceive because of a failure to disclose material facts.

8 "...

9 "(f) Any person so licensed who violates this section is guilty of a misdemeanor.

10 A bona fide mistake of fact shall be a defense to this subdivision, but only to this
11 subdivision.

12 "(g) Any violation of this section by a person so licensed shall constitute good
13 cause for revocation or suspension of his or her license or other disciplinary action.

14 "(h) Advertising by any person so licensed may include the following:

15 "...

16 "(5)(A) A statement that the practitioner is certified by a private or public board
17 or agency or a statement that the practitioner limits his or her practice to specific fields.

18 "...

19 "(C) A physician and surgeon licensed under Chapter 5 (commencing with
20 Section 2000) by the Medical Board of California may include a statement that he or
21 she limits his or her practice to specific fields, but shall not include a statement that he
22 or she is certified or eligible for certification by a private or public board or parent
23 association, including, but not limited to, a multidisciplinary board or association,
24 unless that board or association is (i) an American Board of Medical Specialties
25 member board, (ii) a board or association with equivalent requirements approved by
26 that physician's and surgeon's licensing board prior to January 1, 2019, or (iii) a board
27 or association with an Accreditation Counsel for Graduate Medical Education approved
28 postgraduate training program that provides complete training in that specialty or

1 subspecialty.... A physician and surgeon licensed under Chapter 5 (commencing with
2 Section 2000) by the Medical Board of California who is certified by a board or
3 association referred to in clause (i), (ii), or (iii) shall not use the term 'board certified'
4 unless the full name of the certifying board is also used and given comparable
5 prominence with the term 'board certified' in the statement.

6 "...

7 "(j) The Attorney General shall commence legal proceedings in the appropriate
8 forum to enjoin advertisements disseminated or about to be disseminated in violation
9 of this section and seek other appropriate relief to enforce this section.

10 Notwithstanding any other provision of law, the costs of enforcing this section to the
11 respective licensing boards or committees may be awarded against any licensee found
12 to be in violation of any provision of this section....

13 "..."

14 6. Section 652 of the Code states, in pertinent part:

15 "Violation of this article in the case of a licensed person constitutes
16 unprofessional conduct and grounds for suspension or revocation of his or her license
17 by the board by whom he or she is licensed...."

18 7. Section 2234 of the Code states, in pertinent part:

19 "The board shall take action against any licensee who is charged with
20 unprofessional conduct. In addition to other provisions of this article, unprofessional
21 conduct includes, but is not limited to, the following:

22 "...

23 "(b) Gross negligence,

24 "(c) Repeated negligent acts. To be repeated, there must be two or more
25 negligent acts or omissions. An initial negligent act or omission followed by a separate
26 and distinct departure from the applicable standard of care shall constitute repeated
27 negligent acts.

28 ///

“(1) An initial negligent diagnosis, followed by an act or omission medically appropriate for that negligent diagnosis of the patient shall constitute a single negligent act.

“(2) When the standard of care requires a change in the diagnosis, act, or omission that constitutes the negligent act described in paragraph (1), including, but not limited to, a reevaluation of the diagnosis or a change in treatment, and the licensee’s conduct departs from the applicable standard of care, each departure constitutes a separate and distinct breach of the standard of care.

“ . . .

“(e) The commission of any act involving dishonesty or corruption that is substantially related to the qualifications, functions, or duties of a physician and surgeon.

“ ”
...

8. Unprofessional conduct under Section 2234 of the Code is conduct which breaches the rules or ethical code of the medical profession, or conduct which is unbecoming to a member in good standing of the medical profession, which demonstrates an unfitness to practice medicine. (*Shea v. Board of Medical Examiners* (1978) 81 Cal.App.3d 564, 575.)

9. Section 2266 of the Code states:

"The failure of a physician and surgeon to maintain adequate and accurate records relating to the provision of services to their patients constitutes unprofessional conduct."

FIRST CAUSE FOR DISCIPLINE

(Gross Negligence)

10. Respondent has subjected his Physician's and Surgeon's Certificate No. A82220 to disciplinary action under sections 2227 and 2234, as defined by section 2234, subdivision (b), of the Code, in that he committed gross negligence in his care and treatment of Patient A,¹ as more particularly alleged hereafter:

¹ To protect the privacy of the patients involved, patient names were not included in this pleading. Respondent is aware of the identity of each patient.

1 PATIENT A

2 11. On or about February 26, 2015, Patient A, then a twenty-nine-year old male, saw
3 Respondent, a physician specializing in otolaryngology, for a plugged left ear. Respondent's
4 handwritten note, which is difficult to decipher, appears to note "L[eft] otomycosis." In an
5 interview with Board investigators, Respondent explained that he suctioned Patient A's left ear
6 and prescribed Amoxicillin for a fungal infection. Patient A was to return for a follow up in one
7 week, but canceled the appointment.

8 12. On or about July 2, 2015, Patient A returned to Respondent's office for a different
9 complaint. Patient A told Respondent that his voice was hoarse, and it had started when he lost
10 his voice during his son's baseball season. According to Respondent's near illegible handwritten
11 notes for this visit, Respondent performed a "FDL," later explained to be a flexible direct
12 laryngoscopy. He documented that Patient A had a vocal cord nodule and deviated nasal septum
13 to the left with a 90% occlusion. Respondent documented no subjective signs and symptoms or
14 physical exam findings that would indicate chronic sinusitis including purulence, tissue edema, or
15 nasal polyps. Respondent prescribed "QNasl," or beclomethasone dipropionate nasal aerosol, a
16 steroid, and Claritin.

17 13. Eighteen days later, on or about July 20, 2015, Patient A returned to Respondent's
18 office to follow up on "laryngitis." Patient A reported no change in his symptoms, despite taking
19 the medications prescribed. Respondent recommended surgical treatment, writing "BS/SM,"
20 which referred to a balloon sinuplasty and submucosal resection.

21 14. In a typed letter documenting this visit, Respondent noted that Patient A had chronic
22 sinus infections and eustachian tube dysfunction for his entire life, and that his "sinuses
23 constantly drain and are recalcitrant to medical treatment." For medical treatment, Respondent
24 noted that Patient A had been tried on QNasl spray, Claritin, and Amoxicillin, despite the fact that
25 Respondent had prescribed Patient A Amoxicillin for his clogged left ear rather than his hoarse
26 voice. The letter also documented his findings from an endoscopic examination of Patient A's
27 nose which include "a severely deviated nasal septum in excess of 90% to the left side that he has
28 discomfort...no evidence of any polyposis" and "piriform sinuses that are filled with mucus and

1. vocal cord nodules caused by constant throat clearing." Respondent diagnosed Patient A with
2. chronic sinus disease, and concluded by stating that Patient A would be an "excellent candidate"
3. for septoplasty, reduction of the turbinates, and endoscopic sinus surgery.

4. 15. Over four months later, on or about November 30, 2015, Patient A returned to
5. Respondent's office for a pre-operative visit. Patient A had elected to follow Respondent's
6. recommended treatment. Respondent's handwritten notes, which are difficult to decipher, appear
7. to document a heart and lung exam, and a prescription for Tylenol with codeine and an antibiotic.
8. Respondent also wrote "Q/A." Respondent later told Board investigators that that notation meant
9. he had a question and answer session with Patient A about the upcoming procedure. Respondent
10. did not document what questions he answered, nor could he remember during his interview with
11. the Board what exactly was discussed. Respondent's note fails to document any subjective
12. findings or diagnoses. Respondent failed to order and review a CT scan of Patient A's sinuses to
13. confirm that surgery was indicated or to view the anatomy.

14. 16. On a form submitted to the hospital to schedule the procedure signed by Respondent
15. on or about November 20, 2015, Respondent's assessment for Patient A included a deviated nasal
16. septum, chronic sinusitis, vocal cord nodule, and turbinate hypertrophy.

17. 17. Respondent's records for Patient A include a typed preoperative history and physical
18. dated on or about November 30, 2015. Respondent's physical examination was only significant
19. for Patient A's deviated septum.

20. 18. On or about December 1, 2015, Respondent performed surgery on Patient A at a local
21. hospital. In his operative report, Respondent noted that Patient A had chronic sinus disease, nasal
22. airway obstruction, headaches, sore throat, postnasal drip, and cough. Respondent performed the
23. following procedures: (1) bilateral endoscopic total ethmoidectomies; (2) bilateral endoscopic
24. balloon sphenoidotomies; (3) bilateral endoscopic balloon maxillary antrostomies; (4) bilateral
25. endoscopic balloon frontal sinusotomies; (5) septoplasty; and (6) bilateral reduction of the
26. inferior turbinates. Patient A was discharged from the hospital the same day.

27. 19. On or about December 2, 2015, Patient A returned to Respondent's office to remove
28. the packing that had been placed on either side of his nose following the procedure.

1 20. On or about December 17, 2015, Patient A returned to Respondent's office for a
2 three-week follow-up. Patient A reported some congestion and no headaches, and was still
3 rinsing with saline solution. Respondent's handwritten notes are illegible, but he told Board
4 investigators he examined Patient A's nasal cavities with a flexible endoscope. According to
5 Respondent, Patient A had no complications, perforations, scarring, or adhesions. Respondent
6 also performed an endoscopic sinus debridement and told Patient A to follow up in three months.

7 21. On or about March 16, 2016, Patient A returned to Respondent's office for his three-
8 month follow-up. Patient A reported that his hoarseness and sore throat had not improved.
9 Respondent performed another fiberoptic direct laryngoscopy and documented a polyp on Patient
10 A's right vocal cord. The rest of Respondent's handwritten note is difficult to decipher, but
11 Respondent later told Board investigators that he recommended another surgery to remove the
12 polyp.

13 22. Respondent committed gross negligence in his care and treatment of Patient A for
14 performing the surgical procedures mentioned above without a preoperative sinus CT to
15 document sinus anatomy and locate sinus pathology and without attempting maximal medical
16 therapy first.

17 **SECOND CAUSE FOR DISCIPLINE**

18 **(Repeated Negligent Acts)**

19 23. Respondent has further subjected his Physician's and Surgeon's Certificate No.
20 A82220 to disciplinary action under sections 2227 and 2234, as defined by section 2234,
21 subdivision (c), of the Code, in that he committed repeated negligent acts in his care and
22 treatment of Patients A and B, as more particularly alleged hereinafter:

23 **PATIENT B**

24 24. On or about February 1, 2016, Patient B, a then seven-year old male, presented to
25 Respondent with complaints of obstructive sleep apnea. After a physical examination,
26 Respondent diagnosed the patient with snoring and adenotonsillary hypertrophy, and
27 recommended a tonsillectomy and adenoidectomy. Respondent's very brief chart notes for this
28 visit are handwritten and difficult to decipher.

1 25. On or about March 21, 2016, Patient B presented to Respondent for a preoperative
2 appointment. Respondent's very brief chart notes for this visit are handwritten and difficult to
3 decipher.

4 26. On or about March 29, 2016, Respondent performed a tonsillectomy and
5 adenoidectomy on Patient B under general anesthesia, but did not administer an intraoperative
6 dose of intravenous dexamethasone.² After the surgery, Patient B was discharged home.

7 27. On or about March 30, 2016, Patient B's mother called Respondent's office, stating
8 that Patient B had been vomiting and had already been given Zofran,³ which was not helping.
9 Respondent recommended the patient use over-the-counter anti-nausea medication and to drink
10 fluids.

11 28. On or about April 1, 2016, Patient B's mother called Respondent's office, stating that
12 Patient B was still vomiting within one hour after eating. Respondent referred the patient to his
13 pediatrician for treatment of possible gastroenteritis. When the patient's mother was dissatisfied
14 with this recommendation, Respondent spoke with the mother personally. During this discussion,
15 Respondent did not offer the patient any medication to treat his symptoms, did not refer the
16 patient to the emergency room, and did not prepare any notes in the patient's chart documenting
17 his discussion with the patient's mother.

18 29. On or about April 1, 2016, Patient B presented to the emergency room with
19 complaints of nausea and vomiting for three (3) days, and was diagnosed with post-operative
20 nausea and vomiting, and severe dehydration. Respondent examined Patient B in the emergency
21 room and requested the patient be given medication to reduce inflammation. Respondent's chart
22 notes do not contain any reference to his examination of Patient B in the emergency room or his
23 recommended treatment.

24 30. Respondent committed repeated negligent acts in his care and treatment of Patients A
25 and B, which included but was not limited to, the following:

26 _____
27 ² Dexamethasone is a steroid used to treat inflammation.

28 ³ Zofran, brand name for Ondansetron, is a prescription medication that blocks the actions of
chemicals in the body that can trigger nausea and vomiting.

1 (a) Paragraphs 11 through 29, above, are hereby incorporated by reference and
2 realleged as if fully set forth herein;

3 (b) Respondent incorrectly diagnosed Patient A with chronic sinusitis without
4 documenting or finding the proper medical indications of the condition;

5 (c) Respondent failed to properly treat Patient A for chronic sinusitis either with
6 antibiotics or steroids for a long enough period of time to determine their efficacy prior to
7 surgical intervention;

8 (d) Respondent failed to adequately and accurately document his treatment and care
9 of Patient A by maintaining legible notes and by documenting the following: (1) Patient A's
10 symptoms and the subjective findings, including possible vocal trauma; (2) details from the
11 question and answer session during the preoperative visit; (3) information that would
12 support Respondent's recommendation that surgery was medically indicated; and (4)
13 Respondent's post-surgical findings in the three-month follow up visit;

14 (e) Respondent failed to administer an intraoperative dose of intravenous
15 dexamethasone to Patient B on or about March 29, 2016;

16 (f) Respondent failed to provide Patient B with a prescription for an anti-emetic, or to
17 refer Patient B to the emergency room for intravenous fluids and medication on or about
18 April 1, 2016; and

19 (g) Respondent failed to adequately and accurately document his treatment and care
20 of Patient B by maintaining legible notes and by failing to document the following: (1) his
21 phone conversation with Patient B's mother on or about April 1, 2016; and (2) details from
22 his examination and treatment of the patient in the emergency room on or about April 1,
23 2016.

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1 **THIRD CAUSE FOR DISCIPLINE**

2 **(Failure to Maintain Adequate and Accurate Medical Records)**

3 31. Respondent has further subjected his Physician's and Surgeon's Certificate No.
4 A82220 to disciplinary action under sections 2227 and 2234, as defined by section 2266, of the
5 Code, in that he failed to maintain adequate and accurate medical records for Patients A and B, as
6 more particularly alleged in paragraphs 11 through 30, above, which are hereby incorporated by
7 reference and re-alleged as if fully set forth herein.

8 **FOURTH CAUSE FOR DISCIPLINE**

9 **(Public Communication Containing a False, Misleading or Deceptive Statement)**

10 32. Respondent has further subjected his Physician's and Surgeon's Certificate No.
11 A82220 to disciplinary action under sections 2227 and 2234, as defined by sections 651 and 652
12 of the Code, in that he made a public communication containing a false, misleading or deceptive
13 statement, as more particularly alleged hereafter:

14 33. On January 29, 2019, Respondent provided investigators for the Board with his
15 curriculum vitae, which claims Respondent was board certified by the American Board of
16 Otolaryngology and the American Board of Facial Plastic and Reconstructive Surgery in May
17 2001.

18 34. On or about January 29, 2019, Respondent was interviewed by investigators for the
19 Board. During the interview, he stated that he was currently board certified by the American
20 Board of Otolaryngology and the American Board of Facial Plastic and Reconstructive Surgery,
21 and that he never needed to renew his certification.

22 35. On or about March 20, 2019, an investigator for the Board reviewed Respondent's
23 website, abbaskashani.com. On a page entitled, "Meet Our Doctor," it stated, "As an American
24 Academy of Otolaryngology Board Certified in Head and Neck Surgery, Facial Plastic &
25 Reconstructive Surgery for over 20 years, Dr. Abbas Kashani has been practicing in Manteca, CA
26 since February 2009."

27 ///

28 ///

36. On or about March 20, 2019, the same investigator for the Board confirmed that Respondent is neither board certified by the American Board of Facial Plastic and Reconstructive Surgery nor the American Academy of Facial Plastic and Reconstructive Surgery.

FIFTH CAUSE FOR DISCIPLINE

(Dishonesty or Corruption)

37. Respondent has further subjected his Physician's and Surgeon's Certificate No. A82220 to disciplinary action under sections 2227 and 2234, as defined by section 2234, subdivision (e), of the Code, in that he has committed an act or acts of dishonesty or corruption, as more particularly alleged in paragraphs 32 through 36, above, which are hereby incorporated by reference and realleged as if fully set forth herein.

PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Medical Board of California issue a decision:

1. Revoking or suspending Physician's and Surgeon's Certificate Number A82220, issued to Respondent Abbas Kashani, M.D.;
2. Revoking, suspending or denying approval of Respondent Abbas Kashani, M.D.'s authority to supervise physician assistants and advanced practice nurses;
3. Ordering Respondent Abbas Kashani, M.D., if placed on probation, to pay the Board the costs of probation monitoring; and
4. Taking such other and further action as deemed necessary and proper.

DATED: June 20, 2019

Kimberly Kirchmeyer
KIMBERLY KIRCHMEYER
Executive Director
Medical Board of California
Department of Consumer Affairs
State of California
Complainant

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